

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9532 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

CONTINENTAL TEXTILE MILLS LTD

Versus

VS GADHVI OR HIS SUCCESSOR IN OFFICE

Appearance:

MR ARUN H MEHTA for Petitioner
Mrs. Manisha Lavkumar, Ld. AGP for Res.No.1
Mr. L N Medipally, ld. advocate for Res. No.2

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 17/12/1999

ORAL JUDGEMENT

Rule. Ld. AGP Mrs. Manisha Lavkumar and Ld.
advocate Mr. L.N. Medipalli for respondents No. 1 & 2
respectively appear and waive service of rule .

2. By means of filing this petition under Article

226 of the Constitution, the petitioner herein Continental Textile Mills Limited have brought in challenge the Notification issued at Annexure-B, issued by the respondent No.1 Collector for sale of the Assets of the petitioner company in sum of Rs.1,97,45,000-00.

3. It is contended by Ld. advocate for the petitioner, that the petitioner company wrote a letter to the respondent Collector inviting his attention about the fact of under-valuation of assets and requested to act according to the letter, and as per the High Court order recorded in LPA No. 77/99 inn Spl.C.A. No. 3418/98, whereby the Division Bench has observed that the Collector shall strictly follow the procedure laid down under Bombay Land Revenue Code. In spite of the above fact, respondent Collector has not paid heed to the request made by the petitioner and issued the impugned notification for sale of the assets of the petitioner valuing at Rs.1,97,45,000-00; therefore present petition is filed for seeking following relief :-

(A) " that by appropriate writ direction and order, the impugned notification issued by the respondent collector be quashed and/or set aside and the Collector be directed to issue a fresh notification / proclamation stating the correct price of the plant and machinery which should not be less than Rs. 4.5 crores and also mention the leasehold nature of the land and its correct market price; "

4. Ld. advocate Mr. Mehta contended that if the matter is remanded to the Collector for deciding the valuation afresh, and thereafter the notification for sale of the assets is issued, same would meet the ends of justice and it would also be in the interest of all creditors concerned of the petitioner company, and therefore he requested that appropriate order may be passed for remanding the matter to the Collector for deciding the valuation of the assets afresh.

5. Ld. AGP Mrs. Manisha Lavkumar relying upon the order recorded in LPA aforesaid contended that, the Division Bench has directed the Collector to follow the procedure laid down under Bombay Land Revenue Code and to decide market value of the property. She also contended that if the present petitioner is not satisfied on the valuation made by the Collector, matter may be remanded for deciding the valuation in light of the present prevailing market value and thereafter notification in that regard shall be issued.

6. Ld. advocate Mr. L.N. Medipally objected to remanding the matter on the ground that, since the workers of the petitioner company are deprived of their past wages, their legitimate dues which has remained outstanding since long and market value assessed by the Collector is assessed as per the provisions of Bombay Land Revenue Code, and therefore on the basis of the market value assessed by the Collector the sale may be ordered to be proceeded with instead of remanding the matter.

7. Having heard Ld. advocates appearing for the parties and on having perusal of the averments made in the petition and the order recorded by the Division Bench of this Court in LPA No. 77/99 in SCA No. 3418 of 1998, it appears that the market value of the property of the company assessed by the Collector is not as per the present market value. According to Mr. Mehta, it should have been more than Rs. 4.5 crores for plant & machinery only, besides this, the price of the land is also required to be reassessed. In view of aforesaid facts, I am of the opinion that, if the matter is remanded to the Collector for assessing the value of the property of the company, including plant & machinery and land, who in consultation with Land Price Committee shall decide the price as per the present market value and thereafter issue the notification, same would meet the ends of justice.

8. In the net result, this Spl.C.A. succeeds and accordingly it is allowed. Matter is remanded to the Collector for deciding the valuation afresh, considering the present market value within a period of eight weeks hereof, and thereafter to issue the notification thereof. Rule made absolute to the aforesaid extent. No costs.

/vgn